

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BOARD OF TRUSTEES OF THE KERN
COUNTY ELECTRICAL WORKERS
PENSION FUND, *et al.*

Plaintiffs,

v.

MEASUREMENT INSTRUMENTATION,
INC., *et al.*

Defendants.

Case No. 1:23-cv-00744-ADA-CDB

ORDER ON STIPULATION CONTINUING
SCHEDULING CONFERENCE,
EXTENDING TIME FOR FILING OF JOINT
SCHEDULING CONFERENCE REPORT
AND FOR DEFENDANTS TO FILE
RESPONSIVE PLEADINGS TO
COMPLAINT *NUNC PRO TUNC*

ORDER DIRECTING CLERK OF COURT
TO REVISE PARTY NAME

(Doc. 10)

On May 14, 2023, Plaintiffs Board of Trustees of the Kern County Electrical Workers Pension Fund, Board of Trustees of the Kern County Electrical Workers Health and Welfare Trust, Board of Trustees of the Kern County Electrical Journeyman and Apprenticeship Training Trust, and Construction Benefits Administration, Inc. (hereinafter collectively “Plaintiffs”) filed a complaint against Defendants Measurement Instrumentation, Inc., Key Electrical, Inc., Key Staffing, Inc., Robert David Smith, and Sharyn Smith (hereinafter collectively “Defendants”). (Doc. 1). On July 12, 2023, Defendants were served with the complaint and summons, and proofs of service were filed to this Court on July 20, 2023. (Docs. 5-9). Defendants had until August 2, 2023, to respond to Plaintiffs’ complaint.

1 Pending before the Court is the parties' stipulation seeking an order continuing the
2 scheduling conference, extending the time within which to file the parties' joint scheduling
3 conference report and extending the time (*nunc pro tunc*) by which defendants must respond to
4 the complaint. (Doc. 10). The parties request these extensions and continuances to provide them
5 with more time "to explore the possibility of settlement" without unnecessarily incurring
6 attorney's fees. *Id.* at 3. Further, the parties request Defendant Measurement Instrumentation's
7 name be changed to "Measurement Instrumentation and Controls, Inc." *Id.*

8 Requests for extensions of time in the Eastern District of California are governed by Local
9 Rule 144, which provides: "Counsel shall seek to obtain a necessary extension from the Court or
10 from other counsel or parties in an action as soon as the need for an extension becomes apparent."
11 L.R. 144(d). With respect to the requested extension of time to file responses to the complaint
12 (due August 2, 2023), it should have become apparent sooner than give days later that an
13 extension was needed, and hence, under Local Rule 144, a request for an extension of time should
14 have been filed before now.

15 The Court disfavors granting *nunc pro tunc* relief and directs the parties to exercise better
16 care in anticipating any future requests for extensions of time and filing such requests well before
17 the terminal filing date that the parties seek to extend. However, under the circumstances, the
18 parties have demonstrated good cause for the extension.

19 Accordingly, for the reasons set forth in Defendant's unopposed motion and for good cause
20 shown, IT IS HEREBY ORDERED:

- 21 1. Defendants shall have until September 15, 2023, to file responsive pleadings to
22 Plaintiffs' complaint;
- 23 2. The initial scheduling conference set for August 14, 2023, at 9:00 AM shall be
24 continued to October 5, 2023, at 10:00 AM, in Bakersfield 510 19th Street before
25 Magistrate Judge Christopher D. Baker. Pursuant to the Order Setting Mandatory
26 Scheduling Conference (Doc. 4), the parties shall file a joint scheduling report at least
27 one week in advance; and

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1 3. The Clerk of Court is directed to change the name of Defendant Measurement
2 Instrumentation, Inc.'s to "Measurement Instrumentation and Controls, Inc."

3
4 IT IS SO ORDERED.

5 Dated: August 8, 2023


UNITED STATES MAGISTRATE JUDGE